George Schiaffino and

0/0

Hugh Arnold - Petitioners * * * * * * * * * * *

This case originally came before the Zoning Commissioner as a Petition for Special Hearing wherein the Petitioners requested approval of a nonconforming use of the subject property known as 7307 Linden Avenue. Specifically, the Petitioners requested a finding that the subject property enjoys nonconforming status as a two apartment dwelling.

RULING ON MOTION

A public hearing was held and based upon the evidence presented, a decision donying the Petition was issued by me on May 15, 1992.

I received a letter from one of the Petitioners, Hugh M. Arnold, dated May 20, 1992. That letter shall be accepted as a Motion for Reconsideraion. The letter, which has been attached to the case file, states that there is additional evidence available which was not presented at the hearing. The nature of that evidence is that the property was used to support two apartments since the early 1960s. Further, the Petitionor's letter suggests that certain witnesses who opposed the Petition at the hearing were untruthful.

Without ajudging the veracity of the evidence offered within the May 20, 1992 correspondence, it must be noted that the operative date for the nonconforming use is January 2, 1945. This is the date which zoning initially came to Baltimore County and use of this property as a two apartment structure prohibited. Thus, the Petitioner must offer competent

testimony that the use is continued uninterruptedly since before that date. Even if I accepted the Petitioner's letter as true, the Petition must still fail.

As indicated above, the correspondence alleges only that the use is continued since immediately prior to 1960. Thus, for the reasons set forth herein, the Motion for Reconsideration shall be denied.

THEREFORE, for the reasons set forth above, it is this 12 day of Line 1992, ORDERED by the Zoning Commissioner of Baltimore Counthat the Motion for Reconsideration filed in the within case be and is hereby DENIED.

> Zoning Commissioner for Baltimore County

LES:mmn

Pursuant to the advertising, posting of the property and public hearing on this Petition held, and for the reasons stated above, the relief requested in the Petition for Special Hearing must be denied.

IS ORDERED by the Zoning Commissioner for Baltimore County this 10 day of May, 1992 that the Petition for Special Hearing requesting approval of the nonconforming use of the subject property as a two-apartment dwelling, in accordance with Petitioner's Exhibit 1,

> LAWRENCE E. SCHMIDT Zoning Commissioner

these lots reflect the nature and purpose of the original nonconforming use; (b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind:

"(a) To what extent does the current use of

a different use, and therefore, breaks the continued nature of the noncon-

forming use. It the change in use is found to be different than the origi-

mal use, the current use of the property shall not be considered noncon-

the Zoning Commissioner must determine whether or not the current use

represents a permissible intensification of the original use or an actual

change from the prior legal use. In order to decide whether or not the

current activity is within the scope of the nonconforming use, the Zoning

See McKemy v. Baltimore County, Md., 39 Md. App.257, 385 A2d.

When the claimed nonconforming use has changed, or expanded, then

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKemy v. Baltimore County, Md., Supra.

Commissioner should consider the following factors:

In considering this case, the sole item for my deliberation is whether the property is a nonconforming use as that term is defined within Section 104 of the Baltimore County Zoning Regulations (B.C.Z.R.). That is, is the use properly grandfathered as permissible due to the existence of same on a continuous and uninterrupted basis since prior to the adoption of the prohibiting regulations? In this case, there was no competent evidence presented to justify the alleged nonconforming character of the property. Thus, the Petition must be denied.

be and is hereby DENIED

LES:bjs

for Baltimore County

ORDER I Date

IN RE: PETITION FOR SPECIAL HEARING E/S Linden Avenue, 100' N of * ZONING COMMISSIONER Cherry Street (7307 Linden Avenue) * OF BALTIMORE COUNTY 14th Election District 6th Councilmanic District * Case No. 92-371-SPH George Schiaffino and Hugh Arnold - Petitioners * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, whereby the Petitioners request approval of the nonconforming use of the subject property as a two-apartment dwelling, as more particularly described on Petitioner's Exhibit 1.

The Petitioners, George Schiaffino and Hugh Arnold, appeared and testified. Appearing as Protestants in the matter were Julia Chestnut and John G. Jackson, nearby residents of the area. Also appearing in opposition to the relief requested was Linwood Johnson from the Office of Planning.

Testimony indicated that the subject property, known as 7307 Linden Avenue, consists of .0620 acres, more or less, zoned D.R. 5.5 and is improved with a dwelling, currently utilized as two-apartments. The Petitioners filed the instant Petition as a result of a complaint filed with the Zoning Administration and Development Management Office concerning the use of the property as two apartments. The Petitioners offered evidence that they acquired the subject property, which is part of a duplex unit, in the fall of 1991. Testimony indicated that since their purchase of the property, they have expended significant sums of money and great effort in renovating the property. The Petitioners described in detail their efforts to rehabilitate the subject property, which was in poor condition at the time of purchase, and testified that the dwelling has

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Office of Harris and a second

May 15, 1992

been used as two apartments in the past. This prior use is evidenced by internal access to both the upstairs and the downstairs apartment units and proof that two electric meters served the property at one time. Despite this evidence, the Petitioners acknowledged that they were unable to satisfy their burden of proof that the subject property is nonconforming. As was noted at the hearing, this case turns on whether the property was used as a two-apartment dwelling prior to the enactment of the zoning regulations which now make a multi-family dwelling on this site unlawful. Despite their testimony concerning their rehabilitative efforts, the Petitioners conceded that they were unable to offer sufficient testimony as to the history of the alleged nonconforming use.

As to the Protestants, they contend that the property has not been used continuously as two apartments, and, therefore, is not nonconforming. John Jackson testified that he has lived in the neighborhood since 1982 and that there have been significant periods of time since his occupancy when the subject property was used as a single family dwelling. Julia Chestnut echoed this testimony. For his part, Linwood Johnson testified as to his desire to preserve the character and integrity of African-American neighborhoods in Baltimore County. Thus, he appeared in opposition to the Petition.

As with all nonconforming use cases, the first task is to determine what lawful nonconforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the subject Petition.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is

- 2-

Petition for Special Hearing

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	Olle
	271515
to the Zoning Commissioner of Baltimore County	42 -311.
to the Zoning Commissioner of Dartinote County	1/

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve
A 2 APARTMENT NONCONFORMING DWELLING

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restric-

tions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm. under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

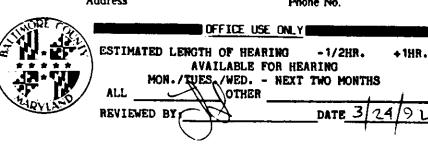
	•
ract Purchaser/Lessee:	Legal Owner(s):
(Type or Print Name)	GEORGE SCHINFINO (Type or Print Name)
Signature	Signature
Address	(Type or Print Name)
City and State	Signature Mill

Attorney for Petitioner:

Signature City and State Name, address and phone number of legal owner, con-tract purchaser or representative to be contacted

City and State Attorney's Telephone No.:

ORDER RECEIVED FOR FILING



Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on

(H0) 887 B86

LES:bjs

Suite 113 Courthouse

400 Washington Avenue Towson, MD 21204

Mr. George Schiaffino

Baltimore, Maryland 21206

Baltimore, Maryland 21214

RE: PETITION FOR SPECIAL HEARING

(7307 Linden Avenue)

Case No. 92-371-SPH

Dear Messrs. Schiaffino & Arnold:

in accordance with the attached Order.

E/S Linden Avenue, 100' N of Cherry Street

14th Election District - 6th Councilmanic District

filing an appeal, please contact Ms. Charlotte Radeliffe at 887-3391.

LAWRENCE E. SCHMIDT Zoning Commissioner

George Schiaffino & Hugh Arnold - Petitioners

7307 Linden Avenue

4802 Holder Avenue

Mr. Hugh Arnold

for Ballimore County cc: Ms. Julia Chestnut 7205 Linden Avenue, Baltimore, Md. 21206

Mr. John G. Jackson 7314 Linden Avenue, Baltimore, Md. 21206

Mr. Linwood Johnson Office of Planning Prople's Counsel; File

- 4-

ORDER I Date _____By_____

ZONING DESCRIPTION. 92-37158H BEGINNIM AT A POINT 100' NORTH OF CHERRY ST

(A 30 FT RW) OW THE EASTERN MOST RIGHT OF WAY OF LINDEN AUE. (50 FT RW) THENE BEING ONE HALF OF LOT # 43 ON THE PLAT OF CHERRY HEIGHTS. AS RECORDED IN RECORD PLAT. WPC # 3 FOLIO 71 ALSO KNOWN AS, 7307 LINDEN AVE. IN THE 14 TH E.D. . 06 ZO AC. ±

Hugh M Smell 3-24-92

Baltimore County Government

Office of Zoning Administration

and Development Management

Office of Planning & Zoning

Please be advised that \$74.76 is due for advertising and posting of the above captioned

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR

THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL. THE DAY OF THE

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake

Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or

Special Stearing Becrue Schaffino & Hayl Agrald Location of property: F/s Aindon /10, 100 11/1/2009 5/ 7307 finden Avec Location of Signe Facing facility for dway on property Posted by Date of return: 1/17/92 Number of Signs:

CERTIFICATE OF PUBLICATION

Special Hearing; to approve a 2 apertment non-conforming dwelling.

4/184 April 16.

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive weeks, the first publication appearing on 4116.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

APRIL 6, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in

CASE NUMBER: 92-371-SPH E/S Linden Avenue, 100' N of Cherry Street 7307 Linden Avenue 14th Election District - 6th Councilmanic

Special Hearing to approve a 2 apartment non-conforming dwelling.

Hugh Arnold

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMPODATIONS PLEASE CALL 887-3353.

(410) 887-3353

Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Petitioner(s): George Schiaffino and Hugh Arnold HEARING: WEDNESDAY, MAY 6, 1992 at 9:00 a.m.

Baltimore County

BALTIMORE COUNTY, MARYLAND
No. 12220 OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT INFO IN COMPTR. AMOUNT \$ 35.00 FROM: MR AKNOLD FOR RES. SPECIAL HRNG. 04A04#0105MICHRC VALIDATION OR SIGNATURE OF CASHIER YELLOW - CUSTOMER

Baltimore Cour Zoning Commissioner County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 County Office Building 111 West Chesapeake Avenue Towson. Maryland 21204

receipt

92-371 Account: R-001-6150

Please Milks Chicks Pryanic To Baltings County

(410) 887-3353

11144

Account: R-001-6150 3/24/92 H9200386 PUBLIC HEARING FEES 030 -SPECIAL HEARING (IRL) LAST NAME OF OWNER: ARNOLD/SCHIAFFIND

PAID PER HAND-WRITTEN RECEIPT DATED 3/24/92

Zoning Commisioner County Office Building
111 West Chesapeake Avenue

Please Make Checks Payable To: Baltimore County

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

RE: Item No. 386, Case No. 92-371-SPH Petitioner: George Schiaffino, et al Petition for Special Hearing

Dear Mr. Schiaffino:

Mr. George Schiaffino

7307 Linden Avenue Baltimore, MD 21206

111 West Chesapeake Avenue

Towson, MD 21204

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Baltimore County Government Office of Zoning Administration

May 4, 1992

and Development Management

Office of Planning & Zoning

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Your petition has been received and accepted for filing this 24th day of March, 1992.

Petitioner: George Schiaffino, et al Petitioner's Attorney:

Printed on Recycled Paper

111 West Chesapeake Avenue

George Schiaffino and Hugh Arnold

7307 Linden Avenue

Baltimore, Maryland 21206

CASE NUMBER: 92-371-SPH

7307 Linden Avenue

Dear Petitioner(s):

E/S Linden Avenue, 100' N of Cherry Street

14th Election District - 6th Councilmanic

Petitioner(s): George Schiaffino and Hugh Arnold

your Order, immediate attention to this matter is suggested.

Towson, MD 21204

(410) 887-3353

Zoning Plans Advisory Committee

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

April 15, 1992

Arnold Jablon, Director
Zoning Administration & Development Management

Ervin McDaniel, Chief

Elliott Weinstein

Development Review Section Office of Planning and Zoning

SUBJECT: PETITIONS FROM ZONING
ADVISORY COMMITTEE - APRIL 6, 1992

The Office of Planning and Zoning has no comments on the

following petitions:

Item No. 383 Joseph M. Lewis Item No. 384 Anthony S. Rinaldi Item No. 386 George Schiaffino Item No. 387 Robert H. Wiedefeld Item No. 388 Joseph A. Cooper Item No. 389 Terry Lee Foy

Ronald W. Chapman If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning and Zoning at 887-3211.

PETITNS3.20N

Item No. 390

Item No. 394

ZONING OFFICE

BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: April 8, 1992

Mr. Arnold Jablon, Director Office of Zoning Administration and Development Management

Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: April 6, 1992

ITEM NUMBER: 386

The issue of parking should be adequately addressed.

Traffic Engineer II

RJF/lvd

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

April 15, 1992

Arnold Jablon, Director Zoning Administration and Development Management

DIVISION OF GROUND WATER MANAGEMENT

SUBJECT: Zoning Comments

The agenda for the zoning advisory committee meeting of April 6, 1992 has been reviewed by the Department of the Environmental Protection and Resource Management staff.

There is no comment for the following item numbers:

NO CMNT/GWRMP

ZONING OFFICE

700 East Joppa Road Suite 901

Towson, MD 21204-5500

(301) 887-4500

APRIL 3, 1992

Baltimore County Government Fire Department

Arnold Jablon Director Zoning Administration and Development Management Baltimore County Office Building Towson, MD 21204

RE: Property Owner: GEORGE SCHIAFFINO AND HUGH ARNOLD

Location: **#7307 LINDEN AVENUE**

Zoning Agenda: APRIL 6, 1992

Item No.: 386(JLL)

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

Noted and Planning Group Approved

Fire Prevention Bureau Special Inspection Division

JP/KEK

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

Arnold Jablon, Director Zoning Administration and

Development Management

Date: April 10, 1992

FROM Robert W. Bowling, P.E., Chief Developers Engineering Division

SUBJECT: Zoning Advisory Committee

The Developer's Engineering Division has reviewed the items on the agenda distributed on April 6, 1992. We have no comment on Items numbered 349, 383, 384, 386, 387, 388, 389, 390 and 394.

RWB:DAK:pab cc: File

ZONADVIS/PB MEMO4



ZONING OFFICE

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MĎ 21204

June 12, 1992

(410) 887-4386

Mr. Hugh Arnold 4802 Holder Avenue Baltimore, Maryland 21214

RE: Ruling on Motion E/S Linden Avenue, 100' N of Cherry Street (7307 Linden Avenue) 14th Election District - 6th Councilmanic District George Schiaffino & Hugh Arnold - Petitioners Case No. 92-371-SPH

Dear Mr. Arnold:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Ruling on Motion has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

> LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

cc: Ms. Julia Chestnut 7205 Linden Avenue, Baltimore, Md.

> Mr. John G. Jackson 7314 Linden Avenue, Baltimore, Md. 21206 Mr. Linwood Johnson

Office of Planning People's Counsel; File

5-4-92

FEIM: Lephoned Jakuson-Planning Office

SUBJECTS: METERLS (GHE) AT 7307 LINDOW AVE, 21206

According to Balture Gas and Electure P. O. BOX 1475 ATTENTION HAIL DESK BUTIHORE, HD. 21203

METERS WORE INSTALLED AT 7307 LINDON AUG. BALTO. HD. 21206 on the following DATES:

JANUARY 1983 - GAS HETER (1) DECEMBER 11,1991 ELECTRIC MÉTEUR (1) Describer 11, 1991 ELETRIC METER (2) JANUARY 14, 1992 GAS HOTER (2)

ACCURDING TO BALTO. GAS+ ELECTRIC GUIRANY THERE ARE NOW TWO ACCOUNTS AT THIS ADDRESS. PRIOR TO DECEMBER 1991 THERE WAS ONLY ONE BG. +E ACCOUNT.

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PLEASE PRINT CLEARLY PROTESTANT(S)	SIGN-IN SHEET
NAME	ADDRESS
Court of	1311 Leader Buc 21206
La di Virgan	The Sinder Sund in the
LINWOOD JOHNSON	Off of blanning

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET		
Jugh (hnold (Hugh ARNOLD)	4802 HOLDER AUENUL ZIZIY 730-7 LINDEN AVE BALTO MD 21206	
GEORGE SCHIRFFIND	7307 LINDEN AVE BALTO	
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